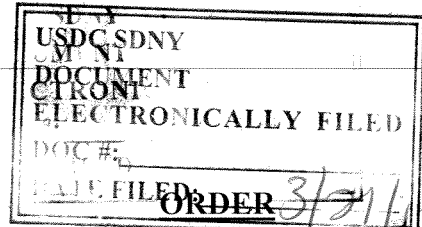


UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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IN RE SCOTTS EZ SEED LITIGATION



12 CV 4727 (VB)

Pending before the Court are motions to dismiss filed by defendant Home Depot U.S.A., Inc., (Doc. #28) and defendants Lowe's Home Centers, Inc., The Scotts Company LLC, and The Scotts Miracle-Gro Company, Inc. (Doc #25).

The motions are fully briefed. However, in their submissions, the parties have failed to discuss whether the Court has subject matter jurisdiction to consider Count One of the consolidated class action complaint, which alleges violations of the Magnuson-Moss Warranty Act, 15 U.S.C. §§ 2301, et seq. Federal court jurisdiction under The Magnuson-Moss Warranty Act appears to be subject to two relevant limitations: (1) the amount in controversy of any individual claim must be at least \$25, and (2) if the action is brought as a class action, at least one hundred plaintiffs must be named. 15 U.S.C. § 2310(d)(3).

By April 5, 2013, the parties are directed to submit supplemental briefs on this issue, not to exceed five pages. Defendants should submit a single, joint brief.

Dated: March 21, 2013
White Plains, NY

SO ORDERED:

A handwritten signature in black ink, appearing to read "Vincent Briccetti".

Vincent L. Briccetti
United States District Judge